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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,749	04/03/2006	Paolo Giubbini	2789-63	1788
23117 7590 02/01/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
			EXAMINER WONG, ALBERT KANG	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 02/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,749

Applicant(s)

GIUBBINI, PAOLO

Examiner

Albert K. Wong

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. This Office action is in response to the application filed April 3, 2006. This application is a 371 of PCT/EP03/07778, filed July 17, 2003. Claims 1-21 are pending.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Argyroudis (5,892,758) in view of Holowick (6,710,721) and WO 01/74045 (hereafter '045).

Regarding claim 1, Argyroudis teaches the claimed method of remote metering of the consumption of utilities (col. 1, lines 18-20) distributed through a public distribution network (col. 1, lines 18-25) where each consumer is associated with at least one remote meter (fig. 3). The plurality of remote meters measures consumption and reports the data to a concentrator associated with the plurality of meters via communication with the concentrator. The concentrator also performs administrative tasks (col. 1, lines 32-36). Each of the remote meters has a host controller and a program memory for executing programs stored in the memory (col. 10, lines 41-54). The concentrator performs the task of transmitting program data to at least one

of the remote meters and the remote meters performs the operation of receiving the program data and updating at least a portion of the program in the memory. Argyroudis does not explicitly teach that the transmission of program data comprises successively sending data messages that comprise portions of the program data. Since the system in Argyroudis uses a conventional packet switched network, it would have been obvious to send the program as a series of packets since the network is unable to accommodate a burst of data that would constitute a program.

Further, it may be argued that the commands sent for reading the meter in Argyroudis may not constitute an update of the program stored in memory. Holowick teaches a remote meter in communication with a concentrator. Col. 3, lines 1-5 teaches the reception of data to update the internal software via downloading through a transceiver. Although the preferred embodiment of data transfer is via a IR transceiver, one of ordinary skill in the art would recognize that any conventional form of transmission would be within the level of skill of a person of ordinary skill in the art. The use of a RF transmitter from a concentrator device is taught in page 7, lines 1-5 of '045. This reference is considered analogous art since it pertains to utility meter reading.

Regarding claim 2, the sending of commands to an individual meter by an or group of meters by address is conventional. It would have been obvious to send program data via a similar form to achieve the same objective.

Regarding claim 3, it would have been obvious to include a program update message so that the meters would understand the nature of the command and perform the desired function.

Regarding claims 4-5, these message are considered conventional commands to control the operation of the system and thus, would have been obvious to one of ordinary skill.

Regarding claims 6-16, these steps are considered conventional in computer based systems, and thus, obvious since they would be known to one of ordinary skill in the art and would be implemented to perform the desired function. Claim 6 recites a file transfer protocol. Claim 7 recites a request for acknowledgement and the resending of data upon failure. Claim 8 recites repeating a query until it is successful. Claim 9 recites the use of acknowledgement and the inhibition of further queries. Claim 10, recites an acknowledgement message. Claim 11 recites the use of a buffer memory. Claim 12 recites the use of a non-volatile memory. Such memory is used to retain data in the absence of power. Claim 13 recites the step of error checking before and after storage of the received data. Claim 14 recites the use of bootstrap to perform software loading. Claims 15-16 recite the use of flags to indicate status.

Regarding claim 17, Argyroudis teaches in col. 6, lines 4-7 the use of power lines to communicate with meters.

Regarding claim 18, see col. 1, lines 16-25 of Argyroudis.

Regarding claim 19, col. 2 of Holowick describes the use of remote meters and concentrators. The functional steps have been addressed in the prior claims.

Regarding claim 20, the structural limitations have been addressed above with the exception of the communication interface and the a microcontroller. The communication interface is inherent since this is required for communication. The microcontroller is well known in the art for processing data in digital system. The inclusion of conventional means for their known function would have been obvious to one of ordinary skill in the art.


Regarding claim 21, this claim merely recites the meter for communicating with the system in the desired manner as recited in claim 1. Since the method has been shown to be obvious, the end point which performs according to the method would also have been obvious.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert K. Wong whose telephone number is 571-272-3057. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian A. Zimmerman can be reached on 571-272-3059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Albert K. Wong
January 29, 2008



ALBERT K. WONG
PRIMARY EXAMINER